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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

OCT 11 2011

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JERAMY MICHAEL ALLEN,

Defendant.

11-CR-00050-JLQ-1

SUPERVISED PRE-TRIAL  
DIVERSION AGREEMENT

Plaintiff United States of America, by and through Michael C. Ormsby,  
United States Attorney for the Eastern District of Washington, and Earl A. Hicks,  
Assistant United States Attorney for the Eastern District of Washington, and  
Defendant JERAMY MICHAEL ALLEN, and the Defendant's counsel, Donald A.  
Kellman, agree to the following Pre-Trial Diversion Agreement. The United States  
and the Defendant agree that the Court should order sentencing of the Defendant  
deferred until October 5, 2013, on the charge of:

Misprision of Felony, in violation of 18 U.S.C. § 4

The United States and the Defendant further agree that under the terms of this Pre-  
Trial Diversion Agreement, which shall be supervised by the United States  
Probation Office. Sentencing and Judgment shall be entered on the above-listed  
charge if ~~for any reason~~ the Defendant violates this Pre-Trial Diversion  
Agreement. The Defendant further agrees that he will not move to withdraw his  
guilty plea and agrees to proceed to sentencing should he violate this Pre-Trial  
Diversion Agreement. If the Defendant successfully completes this Pre-Trial  
Diversion the parties agree to allow the Defendant to withdraw his guilty plea. The

1 United States further agrees that it will dismiss with prejudice this charge,  
2 if the Defendant does not violate the terms herein of the Pre-Trial Diversion  
3 Agreement.

4 **FACTUAL BACKGROUND**

5 The United States and the Defendant stipulate and agree that the following  
6 facts are accurate; On June 10, 2011 the Defendant waived indictment and entered  
7 a plea of guilty to an Information Superseding Indictment which charged the  
8 Defendant with Misprision of a Felony in violation of 18 U.S.C. § 4. During the  
9 change of plea hearing the Defendant was advised of the charges against him, the  
10 possible penalties, his constitutional rights, the elements of the offense and the  
11 factual basis for the charges. Prior to the change of plea hearing the Defendant  
12 entered into a written plea agreement with the United States, wherein he agreed  
13 that the facts outlined in the plea agreement at pages 3 through 8 were accurate as  
14 they related to him. The Defendant further indicated that he had no personal  
15 knowledge about any of the facts relating to Mr. Wellman and the cooperation of  
16 the confidential source in that case. The Defendant further indicated that he did  
17 not dispute the facts unless he otherwise indicated in the statement of facts in the  
18 plea agreement. Therefore, the Defendant and the United States agree that the  
19 Statement of Facts in the plea agreement should be incorporated by reference into  
20 this Pre-Trial Diversion Agreement.

21 After completing an investigation of the offense and the Defendant's  
22 background, it appears that the interest of the United States, the Defendant's  
23 interests, and the interests of justice will be served by the following procedure:

24 On the authority of the Attorney General of the United States, by Michael C.  
25 Ormsby, United States Attorney for the Eastern District of Washington, further  
26 prosecution and sentencing in this District for this offense shall be deferred until  
27 October 5, 2013, and thereafter dismissed with prejudice, provided the Defendant  
28 abides by the conditions and requirements herein outlined.

**ACCEPTANCE OF PRE-TRIAL DIVERSION AND  
STIPULATION OF FACTS**

In consideration of the above Factual Background, the Defendant hereby:

1. Accepts and agrees to pursue and complete the terms and conditions of this Supervised Pre-Trial Diversion Agreement ("Agreement");
2. Understands that if he fails or neglects to comply with any part of the terms and conditions of the Agreement, then the Court will hold a hearing to determine if the Defendant has violated this Agreement and what sentence and judgment should be entered on the charge of Misprision of Felony.
3. Agrees that if the Court revokes the order granting this pre-trial diversion, the facts from the Factual Background above, which incorporates by reference the Factual Statement in the Plea Agreement, will be admissible as evidence at the sentencing hearing. He understands that by agreeing to this process, he is giving up certain Constitutional rights which have previously been outlined in the Plea Agreement and gone over with him at the time he pled guilty to Misprision of Felony. In addition to those rights the Defendant agrees to waive his right to a Speedy Trial in order to pursue the benefits of this Agreement.
4. Agrees to immediately report any potential violation of the conditions listed below to the United States Attorney's Office for the Eastern District of Washington and the United States Probation Office for the Eastern District of Washington.

**CONDITIONS OF SUPERVISED PRE-TRIAL DIVERSION**

The Defendant must abide by the following conditions and requirements in order to receive the benefits of this Agreement.

1. The defendant shall pay restitution in the amount of \$113.92 to the victim by October 31, 2011.
2. The defendant shall complete forty hours of community service as directed by the United States Probation Office

1        3.        The defendant shall not commit another Federal, state, or local crime.

2        4.        The defendant shall not possess a firearm, ammunition, destructive  
3        device, or any other dangerous weapon.

4        5.        The defendant shall answer truthfully all inquiries by the probation  
5        officer and follow the instructions of the probation officer.

6        6.        The defendant shall support his or her dependents and meet other  
7        family responsibilities.

8        7.        The defendant shall work regularly at a lawful occupation unless  
9        excused by the probation officer for schooling, training or other acceptable  
10       reasons.

11       8.        The defendant shall notify the probation officer at least 10 days prior  
12       to any change in residence or employment.

13       9.        The defendant shall refrain from the use of alcohol and shall not  
14       purchase, possess, use, distribute, or administer any controlled substance or  
15       any paraphernalia related to any controlled substance, except as prescribed  
16       by a physician.

17       10.       The defendant shall not frequent places where controlled substances  
18       are illegally sold, used, distributed, or administered.

19       11.       The defendant shall not associate with any persons engaged in  
20       criminal activity, and shall not associate with any person convicted of a  
21       felony, unless granted permission to do so by the probation officer.

22       12.       The defendant shall permit a probation officer to visit him or her at  
23       any time at home or elsewhere and shall permit confiscation of any  
24       contraband observed in plain view.

25       13.       The defendant shall notify the probation officer within 72 hours of  
26       being arrested or questioned by a law enforcement officer.

27       14.       The defendant shall enter into and actively participate in a GED  
28       program as directed by the supervising officer.

      15.       At the direction of the probation officer the defendant shall complete  
      a mental health evaluation and follow any treatment recommendations of the  
      evaluating professional which do not require forced or psychotropic  
      medication and/or inpatient confinement absent further order of the Court.  
      The defendant shall allow reciprocal release of information between the  
      supervising officer and treatment provider. The defendant shall contribute to  
      the cost of treatment according to your ability to pay.

      16.       At the direction of the probation officer the defendant shall undergo a  
      substance abuse evaluation and, if indicated by a  
      licensed/certified treatment provider, enter into and successfully complete  
      an approved substance abuse treatment program, which could include  
      inpatient treatment and aftercare. The defendant shall contribute to the cost  
      of treatment according to your ability to pay. The defendant shall allow full

1 reciprocal disclosure between the supervising officer and treatment  
2 provider.

3 17. The defendant shall abstain from the use of illegal controlled  
4 substances, and shall submit to urinalysis testing, as directed by the  
supervising officer, but no more than six tests per month, in order to  
confirm continued abstinence from these substances.

5 18. The defendant shall abstain from alcohol and shall submit to testing  
6 (including urinalysis and Breathalyzer), as directed by the supervising  
officer, but no more than six tests per month, in order to confirm continued  
abstinence from this substance.

7 19. The defendant shall have no contact with the victim in person, by  
8 letter or other communication devices, audio or visual devices, or through a  
third party, unless authorized by the supervising officer.

9 If the Defendant complies with all the obligations agreed to above, the  
10 charge of Misprision of Felony will be dismissed with prejudice. However,  
11 should there be a violation of the terms of this Agreement and the Agreement is  
12 revoked, the Defendant will not be allowed to withdraw his guilty plea to the  
13 charge of Misprision of Felony and the Defendant will be sentenced pursuant to  
14 the law and the plea agreement previously entered in this matter. The Defendant  
15 further acknowledges that pursuant to the plea agreement the United States can  
16 change its recommendation to the Court should the Defendant use any controlled  
17 substance or be charged or convicted of any new crime. The Defendant  
18 understands that any conduct which violates this Agreement can be used to  
19 increase his sentence and may subject him to additional criminal charges. The  
20 Defendant acknowledges that any sentence imposed based upon a violation of this  
21 Agreement may subject him to a sentence which may include up to the maximum  
22 punishment allowed by law. The Defendant understands that he will be  
23 supervised by the United States Probation Office during the period of deferment.

24 **ADVICE AND ACKNOWLEDGMENT OF DEFENDANT'S RIGHTS**

25 I, JERAMY MICHAEL ALLEN, understand and acknowledge I have the  
26 following rights:

- 27 1. The right to be represented by a lawyer at all hearings;  
28

2. The right to a speedy and public trial in the place where the crime is alleged to have been committed;
3. The right to remain silent before and during trial and to not testify against myself, understanding that if I choose to testify any statement I make can be used as evidence against me;
4. The right at trial to question witnesses who testify against me;
5. The right at trial to call witnesses to testify for me;
6. The right to present evidence and a defense;
7. The right to appeal a guilty judgment, after trial, if I have pleaded not guilty;
8. The right to be presumed innocent unless the charge(s) against me are proved beyond a reasonable doubt, or I enter a plea of guilty;
9. That if I proceed to trial and am found guilty, I may seek suspension of some or all of the fines and costs, and incarceration that may be ordered.

By deferring sentencing on these charges I understand I give up my right to (a) a speedy trial, (b) testify, (c) question witnesses, (d) call witnesses, (e) present evidence or a defense. I further understand that by deferring sentencing on these charges I am agreeing to follow the procedures outlined in this Agreement.

I, JERAMY MICHAEL ALLEN, hereby state that I and my attorney Donald A. Kellman have read this document in its entirety. That my attorney has answered all my questions and provided me with legal assistance in this matter. I understand the conditions of my pre-trial diversion and agree that I will comply with those conditions.

  
 JERAMY MICHAEL ALLEN  
 Defendant

10-11-11  
 Date

  
 Donald A. Kellman  
 Attorney for Defendant Allen

10/11/11  
 Date

Earl A. Hicks

10-11-11

Earl A. Hicks

Date

Assistant United States Attorney



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

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SUPERVISED PRE-TRIAL  
DIVERSION AGREEMENT

The Court finds the Defendant has agreed to comply with the terms and conditions of the Pre-Trial Diversion Agreement; that the Court finds the Defendant has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting pre-trial diversion; that the Defendant's statements were made knowingly and voluntarily; and that the Defendant has knowingly and intelligently waived his Constitutional and statutory rights to a speedy trial, to question those witnesses against him, to call witnesses on his behalf, and to present evidence or a defense at trial.

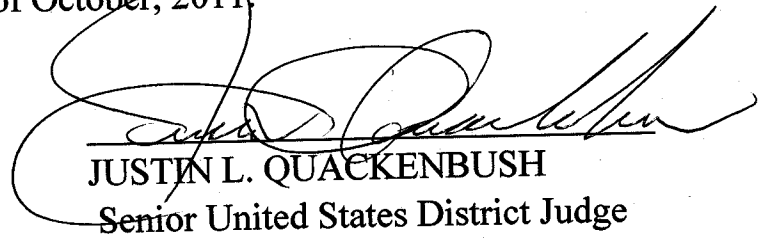
NOW THEREFORE, IT IS HEREBY ORDERED:

1. The Defendant is accepted for pre-trial diversion;
2. The Defendant shall comply with all the terms and conditions as set forth in the Pre-Trial Diversion Agreement;
3. If the Court finds that the Defendant violated any term of the Pre-trial diversion Agreement, the Court shall enter judgment pursuant to the procedures outlines in the agreement.



1 4. The Defendant shall be supervised by the United States Probation Office  
2 during the deferral period.

3 Dated this 11<sup>th</sup> day of October, 2011.

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6 JUSTIN L. QUACKENBUSH  
7 Senior United States District Judge  
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